



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
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DOVER, DELAWARE 19901

Office of the  
Secretary

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**Secretary's Order No. 2006-A-0036**

**Re: Application of Delaware Solid Waste Authority to Renew and Modify a Permit to Operate the Pine Tree Corners Solid Waste Transfer Station Near Townsend, New Castle County.**

**Date of Issuance: July 21, 2006**

**Effective Date: July 21, 2006**

Under the authority granted the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") under *7 Del C. §6003*, the following findings, reasons and conclusions are entered as an Order of the Secretary. This Order considers Delaware Solid Waste Authority's ("DSWA") application to renew and modify its permit to operate the solid waste transfer facility located on approximately 81 acres at 276 Pine Tree Road, Townsend ("Pine Tree Corners Transfer Station").

On July 11, 2006, the Department held a public hearing on DSWA's application, and the Department's assigned Hearing Officer, Robert P. Haynes, developed a record of decision, and prepared a report of recommendations, dated July 20, 2006 ("Report"), a copy of which is appended to this Order and incorporated herein.

The Report recommends approval of the application and the issuance of a solid waste permit to operate the solid waste transfer station. The Report considered the public comments made by the one person, in written comments and at the public hearing. The public comments opposed the issuance of a permit, but if a permit was issued the comments sought to require more recycling and air and health testing. The Report relies

on the Department's technical experts, who indicated that the application is consistent with the law, and the Department's policies and regulations.

The Report addressed the public opposition, which largely was based upon Delaware's policies on recycling. This issue is being addressed in other forums. Simply stated, the closure of the Pine Tree Corner Transfer Station would not advance recycling, but instead it would cause environmental harm and public hardship. There was a public demand for the construction of the Facility, which today serves one of the fastest growing areas in Delaware. Indeed, DSWA provides a voluntary recycling location at the Pine Tree Corners Transfer Station although the Department did not require DSWA to do so..

The Report recommends issuance of the permit as requested, based in part upon the expert technical opinion and evaluation by personnel within the Division of Air and Waste Management's Solid and Hazardous Waste Management Branch. The Department has carefully reviewed the technical support of the application and the operating record of DSWA and the Pine Tree Corners Transfer Station and found that there is a need for the increased daily limit over the next ten years, and that issuance of a ten year term is justified under the circumstances.

The issuance of the permit will include certain reasonable conditions that the Department imposes to protect the environment and public health from the risk of harm from the operations. The permit and its many conditions will allow the Department to enforce the ongoing operations through the exercise of the Department's considerable statutory authority to impose monetary penalties, revoke or suspend a permit, or even undertake criminal prosecution. The permit will also have operational limits imposed on the amount and type of solid waste that may be transferred and the hours of operation.

I adopt the Hearing Officer's review of the record and recommendation. I agree with the Report that the public comments did not raise any justification to deny the application, or amend it in any way to accommodate the comments. My review of the Report and the record finds and concludes that the Department should issue a permit allowing DSWA to continue to operate the Pine Tree Corners Transfer Station and to allow the requested modifications. The Department will include the conditions that are necessary and appropriate to protect the environment and public health from the risk of harm.

In sum, as more fully described in the reasons and findings above and in the Report, I adopt and direct the following as a final order of the Department:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing, and held the public hearing in a manner required by the law and its regulations;
3. The Department considered all timely and relevant public comments in making its determination;
4. The record supports the issuance of a permit based upon the application, and such minor modifications and reasonable conditions that the Department official delegated to prepare the permit determines are necessary to protect the environment and public health;
5. The duly authorized Department official shall timely prepare and issue a permit consistent with this Order; and

6. The Department shall provide notice of this Order to the persons affected by this Order, as determined by the Department, including those who participated in the hearing process, and shall publish notice of its decision in a manner provided by the public notice requirements of 7 Del. C. Section 6004.

*s/David S. Small*

David S. Small  
Deputy Secretary

## **HEARING OFFICER'S REPORT**

TO: The Honorable John A. Hughes  
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire  
Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

RE: Application of Delaware Solid Waste Authority for a Permit to Renew and Modify its Permit to Operate the Pine Tree Corner Transfer Station, Townsend, New Castle County.

DATE: July 20, 2006

### **I. BACKGROUND AND PROCEDURAL HISTORY**

The Department of Natural Resources and Environmental Control ("Department") held a public hearing on July 11, 2006, at the Townsend Fire Hall in Townsend, New Castle County.<sup>1</sup> The public hearing was held in order for the Department to consider public comments on Delaware Solid Waste Authority's ("DSWA") application to renew and modify the permit to operate the existing solid waste transfer station facility located at 276 Pine Tree Road, Townsend, Delaware ("Facility").

On December 27, 2005, DSWA submitted, pursuant to the Department's regulations, an application to renew its permit to operate the Facility. The current permit expired on June 29, 2006, but the Department, pursuant to regulations, extended it pending the review of this application. In addition, DSWA requested certain permit modifications. The requested modifications were 1) a change from a five year term of the permit to a ten year term, 2) a change to eliminate any limits on the amount of solid waste that may be transferred except a daily maximum tonnage limit, and 3) an increase in the daily allowable tonnage that may be transferred from 550 tons to 1,000 tons. DSWA does not seek to change the types of solid waste

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<sup>1</sup> This Hearing Officer was assigned to preside over the hearing, to develop a record of decision and to prepare a report of recommendations for the Secretary of the Department.

to be transferred, which are municipal and dry solid wastes. The renewal application will not change the current permit's hours of operation for receiving solid waste, which are Monday through Saturday, 7:00 a.m. to 5:00 p.m.

Technical experts within the Solid and Hazardous Waste Management Branch ("SHWMB") of the Department's Division of Air and Waste Management ("DAWM"), reviewed DSWA's application and requested additional information on March 28, 2005, which DSWA replied to on May 5, 2006. On May 17, 2006, DSWA provided a revised Part VIII of the application's Environmental Assessment, and with this submission the Department determined that the application was administratively complete.<sup>2</sup> Consequently, the Department published legal notices in order to provide the public with notice of and an opportunity to comment on the application, including the right to request a public hearing.

DSWA was created by the General Assembly in *7 Del. C. Chapter 64*, which enables DSWA to exercise certain defined authority over solid waste management in Delaware as a governmental entity. Nevertheless, DSWA is subject to the Department's authority and regulation of solid waste, as established by *7 Del. C. Chapter 60*. With the Department's permit approval issued September 5, 1990, DSWA constructed the Facility in 1991. DSWA requested the Department approve an expansion of the Facility, which the Department did in a permit issued on November 8, 2002. DSWA completed the two new buildings in April 2004. DSWA renovated Building No. 1 and completed other improvements in September 2005. Of note, the public had an opportunity to comment on the Facility's expansion as part of a separate permit application review process, but the Department did not receive any comments or request for a hearing based upon the public notices.

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<sup>2</sup> The fact that Department's preliminary determined that the application was administratively complete for the purposes of allowing public comment on the application does not mean that an otherwise complete application must be approved. If that were true, then the purpose of public hearing would be frustrated as it would be ineffective to cause any change from the preliminary determination of an administratively complete application and the final decision by the Secretary.

The Department received one comment that requested a public hearing, and the Department determined to hold a public hearing. The Department provided public notice of the public hearing, and only member of the public who attended was Alan Muller, who had submitted comments and requested a hearing on behalf of Green Delaware. Mr. Muller provided extensive oral comments and asked questions of the Department and DSWA representatives.

Following the public hearing, DSWA informed the Department that the commercial haulers' waste would be diverted from the Facility on July 13, 2006, because the Facility was approaching its weekly limit of 2,100 tons. Secretary Hughes directed the Department's review of the application to be expedited because a new permit, if approved, could avoid further environmental harm caused by diverting commercial haulers from the Facility. The diversion requires the collection trucks transporting their cargo to DSWA's facilities either at Wilmington, New Castle County or at Sandtown, Kent County. This diversion caused collections trucks to waste fuel, time and cause more air pollution from increased vehicle travel to destinations farther away. The Facility also was closed for commercial haulers on September 15, 2005, April 20, 2006, April 27, 2006, and May 4, 2006 because of permit limits.

## **II. SUMMARY OF THE RECORD**

At the hearing, Ting Guo, an Engineer in SHWMB and the Department's project manager for the application, made a brief presentation and provided for the record<sup>3</sup> the Department exhibits, which included DSWA's application, the public comment, and the public notices of the application and the hearing. In addition, Bryan Ashby, a SHWMB Program Manager, and Ms. Guo, answered questions. DSWA had several representatives present at the

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<sup>3</sup> The Department takes no position on a pending application until after a public hearing, but it does develop the hearing record with certain information relevant to the record of decision, including the legal proof of the public notices, and any timely and relevant written public comments.

public hearing, and DSWA's Chief Engineer, Richard Watson, made a presentation and he and Logan Miller, the manager for the Facility, answered questions.

Alan Muller, on behalf of Green Delaware, presented public comments and asked questions. He requested that the permit renewal be denied, and also suggested certain changes if the permit is renewed, such as encouraging more recycling and requiring more air and health testing.

This report of recommendations is based upon the record of decision, which contains: 1) a sixty-nine page verbatim transcript of the public hearing, 2) documents, marked as Exhibits ("Ex."), which were admitted into the record as hearing exhibits, and 3) information I reviewed or obtained during discussions or review of Department files, records and other post-hearing communications, including SHWMB's technical response memorandum attached hereto as Appendix A. I consider the record of decision to be well-developed, and will provide ample support for the Secretary's final decision.

### **III. DISCUSSION, FINDINGS AND REASONS**

The Department's statute and regulations set forth the underlying regulatory authority for the Department's exercise of its power to issue or deny a permit. The power to issue a permit includes the power to impose such reasonable conditions on the permittee that are consistent with the regulatory purposes. In 7 *Del. C. §6003(a) (4)*, the General Assembly granted the Department plenary authority to regulate solid waste by requiring a permit from the Secretary for any activity "[i]n a way which may cause or contribute to the collection, transportation, storage, processing or disposal of solid wastes..." Pursuant to this statutory authority, the Department promulgated regulations, *Delaware Regulations Governing Solid Waste*, adopted December 1988, as amended ("DRGSW" or "Regulations"). The Regulations specifically address a "transfer station," which



is defined as “any facility<sup>4</sup> where quantities of solid waste delivered by vehicle are consolidated or aggregated for subsequent transfer by vehicle for processing, recycling or disposal.” The Department’s role is to apply the Department’s regulations, exercise its expert judgment, and act in a manner consistent with the Department’s statutory and regulatory policies. The Department’s Regulations provide the specific criteria that an applicant and the Department must follow for a permit for a solid waste transfer facility.

The public comment indicated concern with the permitting process in which the Department reviews an application to increase the tonnage limits after previously approving the physical expansion of the facility. The concern was that the Department’s approval of the physical increase in capacity may mean that the Department already, in effect, has approved the increased daily tonnage limit. First, the physical capacity of the Facility is in excess of the requested limit, which was based upon the expected solid waste transfer requirements of the area over the next 10 years. Second, the physical capacity also could be increased by increasing the hours of operation without any physical expansion. Finally, there is no determination by the Department to approve increased permit limits based upon the prior approval of the Facility’s larger physical capacity. The decision to expand the Facility is an applicant’s business decision, and, as such, DSWA decided to seek permission to construct more capacity at the Facility, which now is capable of handling 1,710 tons per day, assuming certain operating factors. DSWA assumed the business risk that there will be sufficient waste to use the Facility’s physical capacity, and further assumed the regulatory risk that the Department may deny its request to increase the tonnage limits. Indeed, the Department has not granted a permit modification for increased tonnage when the Department previously had approved another transfer station’s physical expansion. Thus, the fact that the Department already approved the construction does

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<sup>4</sup> Section 3 also defines “Facility” as “all contiguous land, and structures...”

not bind the Department's decision on an application to expand tonnage limits, except that the Department has determined that the existing facility's physical capability is able to handle the transfer of 1,710 tons per day of waste based upon certain operating assumptions.

Section 4 of the Regulations governs the process for permit renewals and permit modifications. The difference between a permit renewal and an application that seeks to modify a permit are considerable from a regulatory review perspective, particularly if a proposed modification is considered "major." If this application was merely a renewal, then there would be no need for the Department to consider the increased impact or risk to the environment or to public health from a major modification. The application, however, proposes to double the daily tonnage limit, and to eliminate the weekly tonnage limit, which will allow a tripling of the weekly tonnage. The application also seeks a ten year term, as opposed to the current permit's five year term. I find that the increased tonnage limit is a major modification that requires the Department to review the application so see if they are justified by the "increased impact or risk to the environment or to the public health," which imposes more stringent regulatory standards.

The tonnage limits are critical to the Department's ability to control the environmental impact through limiting the facility's usage. It is the usage of the transfer station that poses the most significant risk of environmental harm, and this usage is minimized by controlling its allowed tonnage that may be transferred. A solid waste facility that is not used poses little risk of environmental harm or harm to public health. Conversely, as the facility's usage increases, so does the risk of environmental harm. The Department reasonably in its regulation of transfer stations has regulated the amount of daily solid waste that may be transferred by conditioning the permits that are issued to certain tonnage and hours of operation limits. These operating factors present the risk to the environment and public health, and reasonable limits on the hours of operation and the amount of solid waste transferred are appropriate regulatory methods that are

consistent with the Department's regulatory purpose to minimize the potential risk of harm to the environment from the transfer operations.

The public comments raised the issue of requiring the Facility to increase recycling, including the recommendation that it be shut down as a way to force more recycling. Despite this somewhat harsh conclusion, the public comments did compliment DSWA for its management of the Facility. The public comments in the alternative, seeks the Department to direct that more recycling at the Facility occur, including through increased signs prior to the weigh house and allowing scavenging. "Scavenging" is defined in the Regulations as the "uncontrolled and/or unauthorized removal of solid waste from any facility." The Department's Regulations define salvaging as the "controlled removal of solid waste from any facility for reuse of the waste material." The public comments sought to understand the difference between "scavenging" and "salvaging" and was informed that salvaging required training. The Facility's operating manual, as submitted as part of the application, makes it clear that only DSWA's authorized representatives can salvage. Thus, Mr. Muller could see permission from DSWA to salvage and the Department is not going to interfere in the Facility's daily operations of who may or may not salvage.

The real issue is the safe operation of the Facility, which is private property owned by DSWA, who has contracted with Waste Management Inc. of Delaware for its daily operations. The Department should encourage and could even direct DSWA to salvage to the maximum extent possible at the Facility in order to recover as much recyclable goods as possible, but this would impose considerable operational problems on the transfer operations. I find that scavenging by the public poses an unacceptable health and safety risk, which is why it is prohibited by Department Regulation 10. E. 5. The Regulations do not address salvaging at a transfer station, but the Facility, like other transfer station, requires heavy machinery to move the

solid waste from where deposited by the collection trucks to the tractor trailers used to haul the waste to final disposal locations. Thus, it would not be safe for the public to remove materials as part of the transfer process, and having a recycling operation as part of the transfer station could impose unacceptable delays and burdens that may impede the purpose of a transfer station.

To the extent that DSWA wants to encourage more removal of recyclable goods, then the Department encourages all such efforts. At this time there is no specific proposal before me to recommend any further action, but the Department will look into this in the future as part of its ongoing effort to promote recycling. Based upon my personal observation, it is clear that DSWA has promoted recycling at the Facility, but to the extent more improved procedures are appropriate, then DSWA has ample statutory authority to implement such changes.

The public comments focus on recycling in general fails to understand the role of a transfer station. The purpose is to have a convenient, suitable location to allow the transfer of solid waste from a collection vehicle to a long haul tractor-trailer vehicle, which transports the solid waste to its final disposal location in an economic manner. A transfer station has no inherent role in recycling. DSWA includes a recycling location at the Facility in order to provide better recycling availability to the public for voluntary recycling efforts. The Department and DSWA have primary responsibility over solid waste management, and in Delaware, a policy decision has been made that recycling should be voluntary. The renewal of a transfer station permit is not where the debate on Delaware's policies on recycling should occur.

The public comment cites the "fact" that recycling at the Facility is 2%, as measured by the amount of recycled goods compared to the Facility's total volume. This is an inaccurate fact if intended to measure the recycling in the area served by the Facility. First, there is no geographic restriction on where waste may be received other than it must originate in Delaware. This means that the Facility is used by collection companies if it is convenient and economical to

use it. The voluntary drop off of recyclable goods is generally used by the public, and there are at least ten other locations in the general vicinity that may be used. In fact, these locations may be more convenient to use than the Facility as they are located at places frequented by the public, such as shopping centers, etc. The fact that some of the waste may be disposed at an incinerator in Chester, Pennsylvania also is not relevant because that is a business decision made by DSWA and the owner/operator of the incinerator. The Department does want the final disposal to be lawful, and the waste taken from the Facility is disposed of in a lawful manner.

The public comment requested air testing and monitoring of the health of workers. These issues are within the Department's authority, and the Department requires air quality management permits and other monitoring when necessary to protect the public's health. The Facility is subject to dust control, and if other air emissions occur that require a permit, then the emissions will be regulated. The Department's evaluation of the Facility indicates no need for an air quality management permit at this time. Similarly, the monitoring of worker's health is not something that the Department undertakes directly, but other state and federal agencies do regulate this area, and if health reports showed a possible environmental health risk, then the department would investigate further. The Department review of the application and the Facility indicates no undue risk to the health and safety of its workers or the public.

The record discloses that DSWA requests the ability to transfer daily up to 1,100 tons and to operate six days a week for a weekly limit of 6,600 tons. Based upon my discussions with the Department's technical experts, their review has concluded that the Facility has been operated lawfully, and that there is a sufficient justification to increase the daily tonnage limit from 550 to 1,100 tons per day and to eliminate all other tonnage limits, and to issue a permit with a ten year term. This justification includes, among other things, the Department's recognition of the

population growth in southern New Castle County and northern Kent County region that use the Facility.

I agree with the technical experts' assessment that the Facility is physical capable of handling the requested daily tonnage levels, and that there is a need to expand the usage of the Facility to allow for growth over the next ten years. The technical experts also agree that a ten year term is warranted. The Regulation 4.A.5. provides that "[a] permit will be issued by the Department for a specific duration which shall be determined by the Department" and that a transfer station operating permit shall not be issued for periods greater than 10 years. The permit for DSWA's Milford transfer station was issued for ten years even though it was a new facility. I find that DSWA has a satisfactory operating record at the Facility and at its other facilities. As a matter of policy, ten year terms will be used unless special circumstances require a shorter permit term.

DSWA's request is supported by realistic projections over ten years based upon historical levels. Since it opened, Pine Tree Corners has experienced increased usage and the recent trend over the past four years is for the usage to increase at an annual rate of 7.9%, which means that the usage will double in ten years, exactly when the permit limit's will be reviewed again if the ten year term is granted.

I find that the current application does not propose any major change in the facilities or operations other than increase the potential usage in tonnage to be transferred. The transfer operations will continue with: 1) weighing the full collection trucks upon their arrival at a separate weigh station, 2) unloading the collection trucks inside the transfer station building, 3) using a front end loader to further compact the waste and to load the waste on to transfer trailers, and 4) weighing a full transfer trailer at a weigh station within the transfer building prior to a

trailer's departure, and 5) the temporary storage of loaded transfer trailers under a covered storage shed pending their departure from the facility.

The issue of the daily tonnage limit increase and the elimination of the other limits in the current permit are supported by the growth in usage of the Facility. The daily limit satisfies the Department's environmental concerns. The weekly limit has caused some environmental harm when DSWA has been forced to divert solid waste from Facility due to the weekly limit being less than the sum of the daily limits. The waste diversion means that commercial haulers have been sent to DSWA's facilities in Sandtown or Cherry Island. The waste diversion is contrary to sound environmental policies, as it wastes the fuel and time of the haulers and adds to traffic congestion and air pollution. Moreover, transferring solid waste to DSWA's Cherry Island facility accelerates the date when that facility will need to be closed, and, as such, is contrary to the Department's recent permit decision that has any waste transferred at the Facility to go to locations other than Cherry Island.

The Department's experts have reviewed the application and have concluded that it is in compliance with the Department's Regulations. This means from a technical, engineering and scientific perspective the application can lawfully be approved as consistent with the Regulations. Based upon the public comments, I find no public policy ground to justify denying the issuance of a permit for the renewal and for the requested modifications. Thus, I recommend that the permit be issued to reflect the requested modification, subject to certain reasonable conditions to ensure that the Facility operates with a minimum risk of harm to the environment or public health.

#### **IV. RECOMMENDED CONCLUSIONS**

Based upon the discussion and reasons, I find and conclude that the record supports approval of the issuance of a permit to allow DSWA to continue to operate the Pine Tree Corners

Transfer Station, and to grant the permit modifications as requested. This approval will further important local, state and national public policy concerns with the growth in the southern New Castle and northern Kent County areas that send their solid waste to the Facility. The applicant has satisfied the Department's strict regulatory requirements, and the site is a suitable location and it conforms to all the Department's regulatory requirements. The Department's authority is limited to applying its Regulations and public policies, and the Facility satisfies the Department's Regulations, and is needed consistent with the public policy considerations to encourage the economies from transferring solid waste before it is sent to final disposal locations. I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and its regulations;
3. The Department held a public hearing in a manner required by the law and its regulations;
4. The Department considered all timely and relevant public comments in making its determination;
5. The Department should approve a permit, subject to those permit conditions necessary, appropriate and reasonable to protect the environment and public health from the risk of harm from the transfer station operations;
6. The record provides an adequate justification for the approval of the application as consistent with the Department's regulations and the issuance of the permit as requested subject to reasonable conditions to ensure the protection of the environment and public health;



7. The public hearing record contains public opposition to the continued operation on the ground that closure would encourage recycling, but I recommend that this comment be rejected as unrealistic. Instead, continued operation of the Facility is in the public interest and will reduce traffic and otherwise benefit the environment than if the Facility were to close, and;

8. The Director of DAWM shall authorize the timely preparation and issuance of a permit consistent with the Secretary's decision.

[s/Robert P. Haynes](#)

Robert P. Haynes, Esquire  
Senior Hearing Officer

**Appendix A**  
Division Response Document

## MEMORANDUM

**TO:** Robert P. Haynes, Hearing Officer, Office of the Secretary

**THRU:** James D. Werner, Director, Division of Air and Waste Management  
Nancy C. Marker, Program Manager II, SHWMB  
Bryan A. Ashby, Program Manager I, SHWMB

**FROM:** Ting Guo, Engineer, SHWMB

**DATE:** Monday, July 17, 2006

**SUBJECT:** Response to Public Comments of Pine Tree Corners Transfer Station, Delaware Solid Waste Authority (DSWA) Application for Solid Waste Transfer Station Permit Renewal. File Code.09.B

**REFERENCE:** *Pine Tree Corners Transfer Station Permit SW-01/02 Renewal Application* (the Application); dated December 22, 2005, revised May 5 2006, and revised May 17, 2006.  
DRGSW

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The Department of Natural Resources and Environmental Control's Solid and Hazardous Waste Management Branch has the following response to public comments received at the July 11, 2006 hearing in regards to the Pine Tree Corners Transfer Station (PTCTS), Delaware Solid Waste Authority (DSWA) Application for Solid Waste Transfer Station Permit Renewal

### **Background:**

The facility accepts and consolidates in-state municipal and dry wastes and transports them to acceptable recycling and/or disposal facilities. The facility's waste receiving hours are from 7:00AM to 5:00PM Monday thru Saturday. The facility's current permit limits are 350 tons daily average during any business week and 550 tons daily maximum. DSWA requests the renewal of the permit for a term of ten (10) years and to have a daily tonnage limit of 1,100 tons.

Based on public interest, it was determined that a public hearing should be held regarding the application. A hearing was held on July 11, 2006 at the Townsend Fire Company, Inc.'s meeting hall located at 107 Main Street, Townsend, Delaware, and lasted from approximately 6PM to 8PM. Several issues were raised at the hearing that may have not been fully addressed by the Department at the time of the hearing. This memo shall address those issues.

## **Response to Public Comments:**

### ***1. Public Comment:***

It was determined that Pine Tree Corners Transfer Station recycles approximately two percent of the material which it receives, where as that state-wide recycling rate is approximately four percent. The public took issue with both the Transfer Station's low rate in comparison to the rest of the state, and the state's low recycling rate overall. In addition, the public took issue with the Transfer Station's methods of promoting recycling, deeming them ineffective.

### ***Response:***

DNREC supports recycle efforts by both public and private entities, including initiatives by the DSWA. That being said, this facility is constructed and permitted for the consolidation and transfer of municipal solid waste and dry waste. They are not required to house any recycling or diversion operations at this facility. The fact that they do house recycling activities at the facility is likely a matter of logistics and the convenience of its patrons.

In regards to the approximately two percentage recycling rate in PTCTS, this rate does not reflect the total recycling rate in the surrounding area. In addition to the Recycle Delaware drop-off center located at the facility, there are ten other Recycle Delaware drop-off locations within approximately ten miles of the facility. This area, as well as the rest of the state, is also served by DSWA's voluntary curb-side recycling program. The DSWA voluntary recycling program was recently initiated for the entire community of Townsend. Townsend's program will attempt to increase the recycling rate of the town; however the recyclables are not expected to pass through this transfer station. Thus Townsend's program will potentially increasing the recycling rate for the community, while decreasing the amount of recyclables received at the facility. As this shows, the two percent recycling rate seen at the facility does not directly correspond to the recycling rate of the surrounding community.

In regards to the approximate four percent state-wide recycling rate, DNREC does not find this relevant to the current hearing for a transfer station permit application. However, it can be

addressed in brief. DNREC is taking steps to address the issue of recycling. DNREC has helped to usher Recycle Bank into Wilmington. This project provides curb-side recycling, and pays the participant for recycling. DNREC has also banned yard waste from entering Cherry Island Landfill, effective January 1, 2007, which will divert a significant portion of the waste currently headed to that facility. DNREC is also looking into several other industry and area specific recycling opportunities that may exist throughout the state. DNREC has required DSWA to devise a Recycling Plan, which will set a goal of recycling or diverting 40 percent of municipal solid waste stream of New Castle County by December 31, 2007. DNREC has also required DSWA to support and promote voluntary curb-side recycling throughout the state. All of these efforts on the part of DNREC and DSWA are working towards increasing the rate of recycling or diversion of waste within the state.

In regards the Transfer Station's methods of promoting recycling, based on the photographic evidence and the testimony of Mr. Logan Miller at the public hearing, it appears that the transfer station is promoting recycling at the facility. However, additional measures, such as increased signage, could serve to educate the public and increase the amount of waste recycled or diverted.

## ***2. Public Comment:***

The public suggested that air permitting and monitoring should be required at Pine Tree Corners Transfer Station.

## ***Response:***

DNREC requires DSWA to prevent odors, and dust emissions from the facility. DNREC inspects the facility to ensure compliance with these requirements. While under the current permit, no complaints regarding odor or dust emission have been received by DNREC or DSWA, and no violations regarding these issues have been issued to this facility. There are no air permitting requirements which would apply to this facility, thus it does not require an air permit.

## ***3. Public Comment:***

DSWA is requiring greater than a tripling of their tonnage limit, from 2,100 tons per week to 6,600 tons per week. The public found this to be an unjustified.

***Response:***

The engineering report provided by DSWA in the Application demonstrates that the transfer station is capable, under specified assumptions, of managing 1710 tons per day, or 10260 tons per week. As they are physically capable of properly managing the requested 1,110 tons a day or 6600 tons per week the SHWMB finds no technical fault in their request.

The DSWA provides justification for their maximum daily tonnage increase in the environmental assessment section of the Application. Their calculations in this section suggest that based on the rate of annual tonnage increase, from a specified historic interval, in 2016 the maximum tonnage that they should receive in one day would be 1,109 tons. Thus DSWA choose to request an increase in their daily maximum from 550 tons per day to 1,100 tons per day.

DSWA also request to remove their weekly limit of 2,100 tons per week. DSWA's justification for this request is that no such weekly limit was placed on either of DSWA's Route 5 or Milford Transfer Stations; this is noted in a letter from Richard Watson, dated May 5, 2006. In fact, the majority of permitted Transfer Station in the state do not have a weekly tonnage limit that is more restrictive then their daily tonnage limit.

Lastly, the DSWA suggested in conversation and correspondence to DNREC, Logan Miller's email of July 17, 2006, that the amount of waste received fluctuates throughout the week. Certain days of the week may have more commercial traffic, and thus greater tonnage is received. Whereas, other days are dominated by domestic traffic, and see much lower tonnage amounts. Weather, the haulers schedule and numerous other factors may affect the flow of waste to the facility. Due to this fluctuation in tonnage from day to day, DSWA would not expect to reach their permitted maximum six days in a row. Thus, although DSWA is effectively requesting a 6,600 ton weekly limit, they would not expect to reach that limit under the requested permit.

***4. Public Comment:***

The public suggested that there would be a huge traffic increase, considering the tonnage increase request.

***Response:***

DSWA has provided information regarding the projected traffic increase in their environmental assessment section of the Application and response from DelDOT is also included. According to the information, the increased traffic going to PTCTS will not cause a major impact to the average annual daily traffic on Pine Tree Road. DelDOT having seen the projected numbers has determined that a traffic impact study is not required.

***5. Public Comment:***

The public thought that DNREC does not do enough to safeguard worker health and safety.

***Response:***

To safeguard transfer station workers health and safety DNREC relies on the requirements laid out by the experts at the Occupational Safety and Health Administration (OSHA). OSHA's mission is to assure the safety and health of America's workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. DNREC requires that all transfer station employees work under the health and safety guidelines established by OSHA. DNREC also requires that appropriate personal protection equipment, first aid equipment and emergency equipment be available and regularly inspected. Lastly, DNREC requires training both in waste management and in emergency procedures.

All of these requirements ensure that normal operations proceed without endangering worker health and safety, and that if such an incident should occur the facility staff is able to effectively manage it.

***6. Public Comment:***

The public found it inappropriate that DSWA expanded the facility before getting a new permit for an increased tonnage limitation.

***Response:***

DSWA chose not to include a tonnage increase while applying for a major modification to construct and renovate the facility in 2002. However, DSWA did follow the permitting process for the facility changes. DSWA submitted an application, which was reviewed and deemed complete. It was then public noticed, and having no public comments, the permit was modified to include construction and renovation of the facility. After being constructed, certification documents were reviewed and the facility was inspected. DNREC then found the facility to be in compliance with their application and the regulations and permitted the new facilities to operate. At no time during the renovation was any part of the waste transfer operations at the facility unpermitted.

DSWA's reasoning for not applying for a tonnage limit increase with the construction is not clearly defined. However, building facilities prior to seeking a tonnage limit change is not prohibited by regulation and has been done on a prior occasion. It should be noted that simply because a facility has the engineered waste management capacity, does not mean that it will be permitted to reach that capacity.

BAA: TG: dtd

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